STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	John C. Hayes, III Map 132-15-0, Parcel 65.00 Residential Property Tax Year 2007	))))	Davidson County

INITIAL DECISION AND ORDER

Statement of the Case

An Appeal was filed on behalf of the property owner with the State Board of Equalization on October 1, 2007 for a pro-rated assessment. The subject property is presently valued as of July 1, 2007, as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$ 100,000	$402,600	$502,600	$ 125,650

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on November 20, 2007 at the Davidson County Property Assessor's Office; present at the hearing were John C. Hayes, III, the taxpayer who represented himself and Mr. Jason Poling, TCA, Deputy Assessor, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 774 Peach Orchard Drive in Oak Hill, Tennessee. The property consists of a 1 acre lot with 4,132 square feet of space; the home was completed in 2007.

The taxpayer, John C. Hayes, III, contends that the property is worth $426, 500 based on his payment of $68,000 for the land which he obtained by quit claim deed and his cost of construction, basically his attempt to use the cost approach for the determination of an opinion of value.

The assessor contends that the property should be valued at $502,600 as of July 1, 2007[1]. In support of this position, two comparable sales were introduced and are marked as part of exhibit number 1 which is a part of the record in this cause.

The germane issue is the value of the property as of January 1, 2007; here July 1, 2007 as this is a pro-rated assessment. The basis of valuation as stated in T.C.A. § 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its

[1] TCA § 67-5-1412 (3)(e)

sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . . ."

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at $502,600 based upon the analysis by the county in their presentation of evidence.

The taxpayer acquired the property (land) by a quitclaim deed, for an amount that is substantially less than the land values of properties in the immediate area of the subject. Since the conditions of the sale are unknown to the county they have disqualified this transaction in arriving at their opinion of value. Additionally, in attempting to use what is commonly known as "the cost approach"[2], the taxpayer used his construction cost plus lot cost. Mr. Hayes neglected to include other factors and to show appropriate documentation of his figures.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board,* 620 S.W. 2d 515 (Tenn. App. 1981).

Mr. Hayes also attempted to compare his property to other properties on his street without regard to making appropriate adjustments in his presentation. Therefore, the administrative judge finds that the taxpayer's equalization argument must likewise be rejected. The administrative judge finds that the April 10, 1984, decision of the State Board of Equalization in *Laurel Hills Apartments, et. al.* (Davidson County, Tax Years 1981 and 1982), holds that "as a matter of law property in Tennessee is required to be valued and equalized according to the "Market Value Theory'." As stated by the Board, the Market Value Theory requires that property "be appraised annually at full market value and **equalized by application of the appropriate appraisal ratio** . . ." *Id.* at 1. (emphasis added)

The Assessment Appeals Commission elaborated upon the concept of equalization in *Franklin D. & Mildred J. Herndon* (Montgomery County, Tax Years 1989 and 1990) (June 24, 1991), when it rejected the taxpayer's equalization argument reasoning in pertinent part as follows:

> In contending the entire property should be appraised at no more than $60,000 for 1989 and 1990, the taxpayer is attempting to compare his appraisal with others. There are two flaws in this approach. First, while the taxpayer is certainly entitled to be appraised at no greater percentage of value than other taxpayers in Montgomery County on the basis of equalization, the assessor's proof establishes that this property

[2] The Appraisal of Real Estate, 12th Ed., 2001 pp331-383

> is not appraised at any higher percentage of value than the level prevailing in Montgomery County for 1989 and 1990. That the taxpayer can find other properties which are more under appraised than average **does not entitle him to similar treatment.** Secondly, as was the case before the administrative judge, the taxpayer has produced an impressive number of "comparables" but has not **adequately indicated how the properties compare to his own in all relevant respects**. . . . (emphasis added)

Final Decision and Order at 2. See also *Earl and Edith LaFollette*, (Sevier County, Tax Years 1989 and 1990) (June 26, 1991), wherein the Commission rejected the taxpayer's equalization argument reasoning that "[t]he evidence of other tax-appraised values might be relevant if it indicated that properties throughout the county were under appraised . . ." Final Decision and Order at 3.

With respect to the issue of market value, the administrative judge finds that Mr. Hayes simply introduced insufficient evidence to affirmatively establish by the preponderance of evidence the market value of subject property as of July 1, 2007, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a) and *Uniform Rules of Procedure* , Rule 1360-4-1-.02(7).

> As explained by the Assessment Appeals Commission in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) as follows:
>
> The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . . Final Decision and Order at 2.

In analyzing the arguments of the taxpayer the administrative judge must also look to the applicable acceptable standards in the industry when comparing the sales of similar properties as the taxpayer did here.

> The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:
>
> To apply the sales comparison approach, an appraiser follows a systematic procedure.
>
> 1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
>
> 2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect

arm's-length, market considerations. Verification may elicit additional information about the market.

3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.

4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then ***adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable.*** This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.

Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values. [Emphasis supplied] Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001). *Andrew B. & Marjorie S. Kjellin,* (Shelby County, 2005)

ORDER

It is therefore ORDERED that the following value and pro-rated assessment be adopted effective as of July 1, 2007.

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$100,000	$402,600	$502,600	$ 125,650

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 18th day of January, 2008.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. John C. Hayes, III
Jo Ann North, Metro. Property Assessor